

REMARKS

By this amendment, claims 1-29 are pending, in which no claims are currently amended and newly presented. No new matter is introduced.

The Office Action mailed March 31, 2004 rejected claims 1-27 as obvious under 35 U.S.C. § 103 based on *Bector et al.* (US 6,687,732) in view of *McCanne et al.* (US 6,611,872); and rejected claims 28 and 29 under 35 U.S.C. § 103 based on *Bector et al.*

Independent claim 1 recites “**rerouting a DoS flood attack datagram to a tracking router.**” Independent claim 14 recites “**the ingress edge router rerouting the DoS flood attack datagram to the tracking router** as to permit identification of the ingress edge router.”

Applicant respectfully traverses the obviousness rejections as the applied art, along or in combination, fails to provide any disclosure of a “tracking router,” as positively claimed. Additionally, the proposed combination of *Bector et al.* and *McCanne* is unsustainable, as *Bector et al.* clearly teaches away from the combination as well as the claimed invention.

The Office Action, on page 2, asserts that *Bector et al.* discloses the above features, citing FIG 1 (blocks 107 and 114), col. 4: 9-50 and col. 14: 3-31. The Office Action acknowledges that *Bector et al.* is devoid of an “overlay tracking network,” and thereby, is forced to rely on a further reference, that of *McCanne*, for such a supposed teaching.

Bector et al. discloses, on col.4: 3-8, a system for dynamically determining whether to dispatch traffic to a local proxy server, or to bypass the proxy server to send the traffic to a remote server, or to the original target origin server. To properly understand the operation of the *Bector et al.* system, it is noteworthy to examine the definitions of “bypass” and “origin server” as used in the reference. *Bector et al.* states that “to ‘bypass’ a packet means to forward the packet directly to its destination rather than passing it through the proxy server” (col. 5: 29-31). *Bector et al.* also states that the “term ‘origin server’ is used herein to identify a server as

an originating point of delivery for one or more electronic documents that may be of interest to client 100” (col. 1: 49-52). Based upon these definitions, it is unequivocal that the packet is sent directly to a server providing content (i.e., electronic documents) and away from central intermediary devices. The origin server 124 does not provide any capability to track anything. Therefore, there can be no teaching of a “tracking” server, much less the claimed “tracking router.”

McCanne also fails to disclose a “tracking router.” *McCanne* discloses an overlay protocol and system for allowing multicast routing in the Internet to be performed at the application level. The overlay protocol uses “native” Internet multicast and multicast routing protocols to route information, according to overlay routing tables (Abstract). Thus, the *McCanne* system implements “overlay” multicasting, with no relevance to addressing DoS flood attacks (col. 3: 50-57).

While the system of *McCanne* utilizes overlay routers, the reference does not mention or suggest “the **tracking router** forms an overlay,” much less in the manner claimed. The only commonality here is the term “overlay.”

Therefore, even assuming the two references were properly combined based on some teaching or suggestion in the references, and assuming the modifications proposed in the Office Action were justified by additional teachings or suggestions found in the references, even the combination does not render the claimed invention obvious. Specifically, none of the references taken alone, or in combination, teaches or suggests a “tracking router.” To establish *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385, 165 USQP 494, 496 (CCPA 1970).

Furthermore, the manner in which the *Bector et al.* operates provides a clear teaching away from the claimed invention and the proposed combination with *McCanne*. Because *Bector et al.* seeks to divert or bypass packets away from central intermediaries (*see e.g.*, col. 4: 43-50), to suggest rerouting to a central intermediary (instead of the destination – e.g., origin server) would be contrary to this teaching. Nevertheless, the Office Action ignores this teaching away, and attempts to modify the operation of *Bector et al.* to reroute to a central intermediary, such as the *McCanne* overlay router.

Turning to the obviousness rejection of claims 28 and 29 over *Bector et al.*, independent claim 28 recites “receiving a DoS flood attack datagram on an **overlay network formed by a tracking router.**” The Office Action, on page 6, has ignored this limitation. Moreover, the Office Action acknowledges that *Bector et al.* fails to disclose an overlay tracking network.

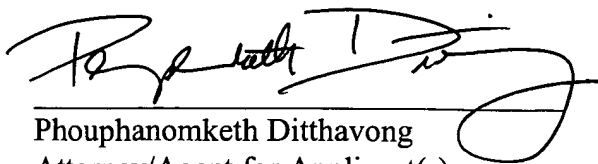
In view of the above arguments, Applicant respectfully requests withdrawal of the obviousness rejections, and urges the indication that independent claims 1, 14, and 28, along with their corresponding dependent claims 2-13, 15-27, and 29, be allowable.

Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 425-8508 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

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Date


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